



RULE-MAKING ORDER

CR-103 (June 2004)
(Implements RCW 34.05.360)

Agency: Department of Labor and Industries

☒ **Permanent Rule**
☐ **Emergency Rule**

Effective date of rule:

Permanent Rules

☐ 31 days after filing.
☒ Other (specify) June 1, 2006 (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

Effective date of rule:

Emergency Rules

☐ Immediately upon filing.
☐ Later (specify) _____

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: The Occupational Safety and Health Administration (OSHA) found our Administrative Rules to be less effective than the Federal requirements. The adopted rule makes the WISHA rule at least as effective as the Federal equivalent rules. Housekeeping changes have been made, in addition to rewriting for clarity and usability. Existing rules contained in chapter 296-350 WAC, Administrative Rules, and WAC 296-800-350, WISHA Appeals, Penalties, and other Procedural Rules, are being combined into a single book titled Administrative Rules and are applicable to all businesses, including those currently covered by Chapter 296-307, Safety Standards for Agriculture.

Citation of existing rules affected by this order:

Repealed: See attachment 1
Amended: None
Suspended: None

Statutory authority for adoption: RCW 49.17.010, 49.17.040, 49.17.050, 49.17.060

Other authority : None

PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 05-23-145 on November 22, 2005.

Describe any changes other than editing from proposed to adopted version: None

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

Name: _____ phone () _____
Address: _____ fax () _____
e-mail _____

EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- ☐ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- ☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

Date adopted: February 21, 2006

NAME (TYPE OR PRINT)

Gary K. Weeks

SIGNATURE

TITLE

Director

CODE REVISER USE ONLY

WSR# 06-06-020

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.**

The number of sections adopted in order to comply with:

| | | | | | | |
|---|-----|-----------|---------|-------|----------|-----------|
| Federal statute: | New | _____ | Amended | _____ | Repealed | _____ |
| Federal rules or standards: | New | <u>39</u> | Amended | _____ | Repealed | <u>52</u> |
| Recently enacted state statutes: | New | _____ | Amended | _____ | Repealed | _____ |

The number of sections adopted at the request of a nongovernmental entity:

| | | | | | |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

The number of sections adopted in the agency's own initiative:

| | | | | | |
|-----|-------|---------|-------|----------|-------|
| New | _____ | Amended | _____ | Repealed | _____ |
|-----|-------|---------|-------|----------|-------|

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

| | | | | | |
|-----|-----------|---------|-------|----------|-----------|
| New | <u>39</u> | Amended | _____ | Repealed | <u>52</u> |
|-----|-----------|---------|-------|----------|-----------|

The number of sections adopted using:

| | | | | | | |
|---------------------------------------|-----|-------|---------|-------|----------|-------|
| Negotiated rule making: | New | _____ | Amended | _____ | Repealed | _____ |
| Pilot rule making: | New | _____ | Amended | _____ | Repealed | _____ |
| Other alternative rule making: | New | _____ | Amended | _____ | Repealed | _____ |

(3) Citation of existing rules affected by this order:

REPEALED SECTIONS:

WAC 296-350-010, Definitions.
WAC 296-350-700, Variance from WISHA rules.
WAC 296-350-70010, Purpose of variances.
WAC 296-350-70015, Permanent variances--Description.
WAC 296-350-70020, Temporary variances--Description.
WAC 296-350-70030, Requesting a permanent variance.
WAC 296-350-70035, Requesting a temporary variance.
WAC 296-350-70040, Renewing temporary variances.
WAC 296-350-70045, Submitting variance requests.
WAC 296-350-70050, Notifying employees about variance requests.
WAC 296-350-70055, Department review and decision.
WAC 296-350-70060, Your responsibilities once we make a decision.
WAC 296-350-70065, Changing a variance.
WAC 296-350-70070, Variance hearings.
WAC 296-350-990, Appendix A--Form F418-023-000--Application for copies of citations and notices.

WAC 296-800-350, Introduction.
WAC 296-800-35002, Types of workplace inspections.
WAC 296-800-35004, Scheduling inspections.
WAC 296-800-35006, Inspection techniques.
WAC 296-800-35008, Response to complaints submitted by employees or their representatives.
WAC 296-800-35010, Citations mailed after an inspection.
WAC 296-800-35012, Employees (or their representatives) can request a citation and notice.
WAC 296-800-35016, Posting a citation and notice and employee complaint information.
WAC 296-800-35018, Reasons to assess civil penalties.
WAC 296-800-35020, Minimum penalties.
WAC 296-800-35022, Base penalty calculations--Severity and probability.
WAC 296-800-35024, Severity rate determination.
WAC 296-800-35026, Probability rate determination.
WAC 296-800-35028, Determining the gravity of a violation.
WAC 296-800-35030, Base penalty adjustments.
WAC 296-800-35032, Types of base penalty adjustments.
WAC 296-800-35038, Minimum and maximum adjusted base penalty amounts.
WAC 296-800-35040, Reasons for increasing civil penalty amounts.
WAC 296-800-35042, Employers must certify that violations have been abated.
WAC 296-800-35044, For willful, repeated, or serious violations, submit additional documentation.
WAC 296-800-35046, Submitting correction action plans.

CR 103 RULE-MAKING ORDER (RCW 34.05.360)

Department of Labor and Industries

WISHA Services Division

Hearing Date: January 13, 2006

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Attachment 1

(Citation of Rules)

WAC 296-800-35048, Submit progress reports to the department when required.

WAC 296-800-35049, WISHA determines the date by which abatement documents must be submitted.

WAC 296-800-35050, Inform affected employees and their representatives of abatement actions you have taken.

WAC 296-800-35052, Tag cited moveable equipment to warn employees of a hazard.

WAC 296-800-35056, You can request more time to comply.

WAC 296-800-35062, WISHA's response to your request for more time.

WAC 296-800-35063, Post the department's response.

WAC 296-800-35064, A hearing can be requested about the department's response.

WAC 296-800-35065, Post the department's hearing notice.

WAC 296-800-35066, Hearing procedures.

WAC 296-800-35072, Post the hearing decision.

WAC 296-800-35076, Employers and employees can request an appeal of a citation and notice.

WAC 296-800-35078, Await the department's response to your appeal request.

WAC 296-800-35080, Department actions when reassuming jurisdiction over an appeal.

WAC 296-800-35082, Appealing a corrective notice.

WAC 296-800-35084, Notify employees.